

## **REMARKS**

### **I. Summary of the Office Action**

In the final office action mailed December 6, 2010, the Examiner rejected claims 1-40. Claims 1-3, 6-7, 11-21, 23-26 and 28-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Killian (U.S. Patent No. 6,163,316), in view of Klosterman et al. (U.S. Patent No. 5,940,073), hereafter referred to as Killian and Klosterman, respectively. Claims 4-5, 8-10 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Killian in view of Klosterman and further in view of Slotznick (U.S. Patent No. 6,011,537), hereafter referred to as Slotznick.

### **II. Status of Claims**

Pending are claims 41-80, of which claims 41, 60, 65, 70, 74, 76 and 78 are independent and the remainder are dependent. In this response, Applicant has cancelled claims 1-40 and added new claims 41-80. The new claims correspond to amended versions of claims 1-5, 7-9, 11-22, 24-27, 29-31, 33, 35, 37, 39, and 40 and the previously presented claims 6, 10, 23, 28, 32, 34, 36, and 38. These amendments are fully supported by the application as filed and specifically at least at ¶¶ 0180-0188 of the specification.

### **III. Response to the 35 U.S.C. § 103(a) Rejections**

The Examiner rejected claims 1-3, 6-7, 11-21, 23-26 and 28-40 under 35 U.S.C. § 103(a) as being unpatentable over Killian in view of Klosterman.

The Examiner rejected claims 4-5, 8-10 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Killian in view of Klosterman and further in view of Slotznick.

**A. The Cited Art Does Not Disclose or Suggest a "Command" and a "Server" as Recited in Claim 41**

Applicants' new claims are directed to generating, sending, and processing a "command" that includes "the information for the broadcast program and information about the media-based device" as recited in claim 41. Claim 41 also recites that the command is sent to a "server" that "process[es] the command to program the media-based record[s] the broadcast program."

Applicant submits that the cited art does not disclose or suggest at least these features related to the "command" and "server" of claim 41. In this response, Applicant has amended the other independent claims -- claims 60, 65, 70, 74, 76 and 78 -- to recite use of a command and a server using the same or similar language to that quoted above for claim 41.

Applicants respectively submit that, in view of the remarks above, all of the pending claims 41-80 are allowable over the cited art.

**B. Claims 43, 61 and 66 Are Further Allowable As Killian and Klosterman Do Not Disclose a One-Click Programming Method**

Dependent claim 43 recites that selection of the link is invoked by one click on the link. Previous claim 3, which recited similar subject matter to claim 43, was rejected on the ground that "Klosterman it is taught how a user can click on an ad which results in the recording of the corresponding infomercial; see column 2, lines 14-17, Klosterman."

Office Action, pg. 25.

Although the initial click may eventually result in the recording, Klosterman does not actually teach that it can be accomplished in one click. Klosterman teaches that “the user may click on the information region to see a billboard or schedule a recording of an infomercial on the product.” Col. 2, lines 14-17. Klosterman does not teach that a single click on the information region automatically makes the recording, rather, the first click only allows to further schedule a recording. Thus, claim 43 is not rendered obvious by Killian and Klosterman and is allowable.

Claims 61 and 66 similarly recite “selection of the broadcast program utilizes one click of a control input device.” Again, the prior art does not disclose a broadcast program being recorded with a single click on an advertisement. Thus, claims 61 and 66 are also allowable for this reason as well.

#### **IV. Conclusion**

Applicants respectively submit that, in view of the remarks above, all of the pending claims 41-80 are allowable over the cited references. Applicants, therefore, respectfully request withdrawal of the current rejections and notification of allowance. The Examiner is invited to call the undersigned at (312) 913-3338 with any questions or comments.

Respectfully submitted,

**McDonnell Boehnen  
Hulbert & Berghoff**

Date: April 5, 2011

By: /Thomas J. Loos/  
Thomas J. Loos  
Reg. No. 60,161